Saint Paul Planning Commission City Hall Conference Center 15 Kellogg Boulevard West

Minutes March 26, 2010

A meeting of the Planning Commission of the City of Saint Paul was held Friday, March 26, 2010, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Mmes. Halverson, Merrigan, Porter, Smitten, Thao, Young; and

Present: Messrs. Alton, Commers, Connolly, Fernandez, Gelgelu, Goodlow, Kramer,

Nelson, Schertler, Spaulding, Ward, and Wickiser.

Commissioners

Absent:

Mmes. *Donnelly-Cohen, *Wencl, and Mr. *Margulies

*Excused

Also Present: Donna Drummond, Planning Director; Phil Belfiori, Larry Zangs, Department of

Safety and Inspections staff, Allan Torstenson, Patricia James, Luis Pereira, Sarah Zorn, Anton Jerve, Emily Goodman, and Sonja Butler, Department of

Planning and Economic Development staff.

I. Approval of minutes March 12, 2010.

<u>MOTION</u>: Commissioner Nelson moved approval of the minutes of March 12, 2010. Commissioner Thao seconded the motion. The motion carried unanimously on a voice vote.

II. Chair's Announcements

Commissioner Commers, who is the Commission's first vice chair, chaired the meeting. He announced that there would be a change in the agenda's order; the Zoning Committee business would be first and directly after would be the public hearing.

III. Planning Director's Announcements

Donna Drummond reported that the announcement for applicants to the Transportation Committee went out this week. She asked commissioners if they are aware of people who would be good members of that committee that they should encourage them to apply. The deadline for applications is April 30th. There was a notice on last Wednesday's City Council agenda that Raymond Matter is suing the City of Saint Paul regarding a zoning case that the Planning Commission had dealt with. It was a permit for the establishment of a legal non-conforming use for an excavating business in Highwood. The City Council denied Ray Matter's appeal of conditions placed on the permit so the case is now going to court.

IV. PUBLIC HEARING:

Commissioner Commers announced that the Saint Paul Planning Commission was holding a

public hearing on the amendments to floodplain regulations and map to meet FEMA requirements for the National Flood Insurance Program. Notice of the public hearing was published in the Legal Ledger on March 15, 2010, and was emailed to the citywide Early Notification System list and other interested parties.

Allan Torstenson, PED staff person, made introductory remarks and summarized what was in the memorandum from him that was included in the commissioner's packets. In December the Federal Emergency Management Agency (FEMA) notified the City that they had completed a Flood Insurance Study (FIS) for Ramsey County, updating the current Flood Insurance Rate Map (FIRM) for Saint Paul from 2003. The new FIS and FIRM for Ramsey County and Saint Paul will become effective on June 4, 2010. FEMA requires, as a condition of continued eligibility on the National Flood Insurance Program, that the city must now adopt the new FIS and FIRM along with revisions to the floodplain regulations to meet current FEMA standards by June 4th. Amendments to do that have been drafted with the assistance of Department of Natural Resources (DNR) floodplain management staff. The amendments also separate floodplain management regulations from Mississippi River Corridor Critical Area regulations.

A substantive amendment in the ordinance that is not required by FEMA is to change the regulatory flood protection elevation from one foot above the height of the regional flood to two feet above the height of the regional flood to correspond with proposed new watershed district rules. This also has the affect of somewhat reducing flood insurance rates.

Minnesota rules require approval by the Commissioner of Natural Resources prior to adoption of amendments to floodplain regulations. On February 16, 2010, the DNR notified the city that the draft floodplain management amendments ordinance is in compliance with *Statewide Standards* and Criteria for Management of Floodplain Areas of Minnesota.

A City Council public hearing on the draft Floodplain Management Overlay District amendments is scheduled for April 7, 2010. It is scheduled so soon so that the June 4th FEMA deadline for the amendments to be in effect can be met. Therefore, the Planning Commission needs to make its recommendation today in order to forward its recommendation to the City Council prior to the City Council public hearing. The commissioners have a draft resolution for their consideration.

Commissioner Commers read the rules of procedure for the public hearing.

The following people spoke.

1. Mr. Tom Dimond, 2119 Skyway Drive, Saint Paul, MN. Mr. Dimond distributed a handout with his comments/suggestions, which reads as follows: Floodplain districts should protect the environment not just buildings for insurance purposes. Current language requires that granting a variance "will not adversely affect the use or stability of a public way, slope or drainage channel, or the natural environment." This language should be included in the variance, conditional use factors considered, expansion of nonconforming use or structure, and standards for permitted uses.

<u>MOTION</u>: Commissioner Ward moved to close the public hearing. Commissioner Young seconded the motion. The motion carried unanimously on a voice vote.

Commissioner Kramer asks staff to respond to the testimony from Mr. Dimond.

Mr. Torstenson said that floodplain management regulations are currently intertwined with Mississippi River Corridor Critical Area regulations. The two sets of regulations are being separated by the draft ordinance amending floodplain management regulations and by a separate ordinance previously transmitted to the City Council amending Critical Area regulations. This separation of Critical Area and floodplain regulations was recommended by the Mississippi River Corridor Critical Area Task Force, and is something City and DNR staff have long wanted to do.

The language Mr. Dimond referred to about not adversely affecting the "use or stability of a public way, slope or drainage channel, or the natural environment" is Critical Area language put in the river corridor regulations when the Critical Area regulations were added in 1982. In working closely with the DNR to separate floodplain and Critical Area regulations, the Minnesota model floodplain management ordinance was used to draft the floodplain management regulations, and the Critical Area language was put in the Critical Area regulations. It is good to keep these two sets of regulations separate and consistent with state standards and guidelines.

The language that an applicant for a variance must demonstrate that the variance will not adversely affect the "use or stability of a public way, slope or drainage channel, or the natural environment" is included in the ordinance that the Planning Commission recommended for the Critical Area. It is language that relates directly to Critical Area regulations and the purpose of Critical Area regulations to protect such things. This language and Critical Area regulations apply to the entire Mississippi River floodplain because the entire floodplain is a subset of the Mississippi River Corridor Critical Area.

Commissioner Ward asked about consistency with Army Core of Engineers standards.

Mr. Torstenson said that the DNR's model Minnesota floodplain management ordinance is designed to be consistent with all federal standards. FEMA and the Army Corps of Engineers, two federal agencies, have standards designed to be consistent with each other. If St. Paul's floodplain management regulations are written to be carefully consistent with the model Minnesota floodplain management ordinance and the *Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota*, then the regulations should be consistent with Army Corps of Engineers standards.

Commissioner Alton asked if line 263, which makes reference to the "board of appeals," means the "board of zoning appeals," and if so is that what it should say. Also he noticed that in a couple of different places the ordinance says "Minnesota State Building Code," and just to be precise he thinks that the ordinance that adopts the State Building Code refers to it as the "State Building Code."

Mr. Torstenson responded that "board of appeals" is a more generic term that probably came out of the state model ordinance. It means "board of zoning appeals" and that is what it should say. The current floodplain regulations refer to the state building code as the "State Building Code," the "Minnesota State Building Code," and one or two other ways as well. In the interest of being consistent, Mr. Torstenson had asked building code officials in DSI which term to use, and they had recommended "Minnesota State Building Code." It might be worth double checking this.

Commissioner Spaulding asked about the practical impact of raising the regulatory flood protection elevation from one foot above the height of the regional flood to two feet above the

height of the regional flood, particularly with respect to Lowertown and the Union Depot rail yard.

Mr. Torstenson said that such things as electrical and mechanical systems and new structures that need to be elevated above the regulatory flood protection elevation would have to be one foot higher.

<u>MOTION</u>: Commissioner Kramer moved to recommend approval of the draft ordinance amending the floodplain regulations to be adopted by the Mayor and City Council. Commissioner Smitten seconded the motion. The motion carried unanimously on a voice vote.

V. Zoning Committee

SITE PLAN REVIEW – List of current applications. (*Tom Beach*, 651/266-9086)

Three items will come before the staff Site Plan Review Committee on March 30, 2010. They are: Como Business Center parking lot expansion at 1085 Snelling Avenue North, Subway parking lot, building and parking lot renovation for new restaurant at 857 Selby Avenue at Victoria, and Central Corridor Light Rail related projects.

NEW BUSINESS

#10-111-756 District 6 – Re-establishment of nonconforming use as office space. 171 Front Avenue, NW corner at Albemarle. (Sarah Zorn, 651/266-6570)

<u>MOTION</u>: Commissioner Kramer moved the Zoning Committee's recommendation to approve the re-establishment of legal nonconforming use. The motion carried unanimously on a voice vote.

#10-113-094 Howard and Phyllis Goserud (adm review) – Modification of nonconforming use permit (#09-267755) approved 10/2/09. 860 Albert Street North between Taylor and Hewitt. (Sarah Zorn, 651/266-6570)

Commissioner Spaulding stated his objections to approving the permit. He was uncomfortable with the idea of this as affordable housing, so he will be voting against this.

Commissioner Nelson had two objections to this application. First, some of the parking spaces that are counted toward providing for adequate parking are actually not legal parking spaces. Second, the applicants had not demonstrated hardship.

Commissioner Kramer stated that all of these issues indicate why this is being considered for a nonconforming use permit. This is an existing situation dating back to 1982. The staff's analysis was that there was adequate off-street parking here. With regard to the hardship issue, the staff report and the resolution detail the hardship issues which include annual rent loss of \$32,000.00 if a deconversion was required. The Zoning Committee did not include in their discussion issues from the previous hearing.

<u>MOTION</u>: Commissioner Kramer moved the Zoning Committee's recommendation to approve the modification of nonconforming use permit subject to additional conditions. The motion carried on a voice vote with Nelson, Spaulding, Ward voting against the motion.

#10-110-727 Audrey Matson – Conditional use permit for garden center with modification of lot area. 1769 Selby Avenue between Fairview and Wheeler. (*Anton Jerve*, 651/266-6567)

<u>MOTION</u>: Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried unanimously on a voice vote.

#10-113-461 Melvin Miller – Conditional use permit for transitional housing for drug and alcohol recovery for 6 adult males and variance for parking. 1116 Pacific Street, SW corner at Frank. (*Emily Goodman*, 651/266-6551)

Commissioner Spaulding asked whether or not this particular use should be certified as a Group Residential Home by Ramsey County.

Commissioner Kramer explained that the first condition within the resolution is that certification has to be received from Ramsey County, and that condition would apply to any operator at this location. Until that certification is received, the conditional use permit is not in effect. Since it is a condition of approval, it would also give the City the ability to revoke the conditional use permit in the future if that certification was canceled.

Commissioner Fernandez said that because of the strong neighborhood opposition to this permit, he will be voting against this.

<u>MOTION</u>: Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried on a voice vote with Commissioner Fernandez voting against the motion.

Commissioner Kramer announced the items on the agenda for the next Zoning Committee meeting on Thursday, April 1, 2010.

VI. <u>HUD Consolidated Plan: 2010-2014</u> – Staff informational presentation. (*Luis Pereira*, 651/266-6591)

Mr. Pereira distributed a hand out showing the eligible uses of HUD programs and how Saint Paul has used the program funds in the past. He said that the HUD Consolidated Plan is a plan required to be completed every (5) five years by entitlement communities that receive HUD funding. It is a planning document, not a budget document. So it does specify some general parameters and priorities in various areas, particularly housing and to a lesser extent, community development. This new update would apply to the 2010-2014 period replacing the 2005-2009 plan. This is specific to three different HUD funding sources: (CDBG) Community Development Block Grant, HOME Investment Partnership, and Emergency Shelter Grant.

CDBG is the biggest funding source received out of the three, and the most flexible, and decisions need to be made on how to allocate these funds. There are three big national objectives that HUD has for these funding sources. The big one requires that a minimum of 70 percent of

the funds must benefit low and moderate income households in the city. The other 30 percent (maximum) can go to the two other HUD national objectives which are to eliminate slums and blight or to meet a particular urgent need. The way that the City has followed this in the past is that there has been a 95/5 percent split, 95 percent going to benefit low-moderate income individuals and the remaining 5 percent to the other two objectives. He talked more about past City allocations of CDBG funds. HUD has requirements about who the City must consult during the plan's development, and the plan has a very specific template that must be followed.

Mr. Pereira talked about Saint Paul's housing needs and problems, homeless needs and other special needs population. The housing market had a decline in volume of homes sold and prices of homes in the last few years. There is some data on exterior physical condition based on Ramsey County data that was used and also data on the affordability of the housing stock. Next he talked about housing priorities and activities. On the homeless housing side, the City participates in the Ramsey County Continuum of Care. The Emergency Shelter Grant (ESG) is the biggest funding source related to homeless housing and services. The City also plans on continuing with the mortgage foreclosure prevention program. For non-housing community development, HUD has a list of every possible activity that is possible to fund with CDBG. This includes everything from health services, senior centers to employment training, physical infrastructure, sidewalk and sewers and more. HUD asks the City to quantify its needs in each area, and determine whether those needs are high, medium and low priority. If anyone has questions or comments on the plan they should contact Luis Pereira at 651-266-6591 or email him at luis.pereira@ci.stpaul.mn.us. There is a web site where the plan is posted and he also has some hard copies if anyone is interested.

Commissioner Schertler stated that given that the document was prepared for the federal government, what were the top five priorities, or was it just re-allocating the dollars to the existing programs? Looking at some of the other urban areas in the country, Saint Paul may not be comparable, but some other cities are doing a radical housing supply reduction. But that is clearly not where we are going in Saint Paul, although we are doing some of that with NSP dollars.

Mr. Pereira said that yes, NSP is really about neighborhood housing revitalization, including a preservation strategy for single family/duplexes. In terms of the supply issue, the Consolidated Plan is clearly focusing on preservation, and that is very consistent with the Comprehensive Plan.

Commissioner Wickiser said that one of the things that he has been noticing with some of the CDCs is that there are many requirements, for example, the lead-based paint requirement, and abatement of it is driving up the rehab cost to a point where this no longer works in the market. And for the CDCs, they are going to be tagging on fees and the people holding the bag is going to be the City of Saint Paul. Where does this stop? His comment is that we rehab these houses and put families in them at 80 percent of medium income and we lose money on each one of them, so is that an effective allocation of these dollars? His answer is "no." He thinks that in looking at these dollars we should be attacking some other issues. In moving forward widening the focus is really important.

Mr. Pereira said that in terms of having a wider approach, staff did hear a strong interest in continuing to fund economic development activities from several council members which they tried to reflect in the large Table 2B, if commissioners want to check that out.

Commissioner Ward said that he applauds PED and the City in trying to attack this problem. The problem is a very complex, very interwoven problem that deals with communities, people that live in the communities, the history of the neighborhoods, the federal government and the money being supplied, as well as trying to be forward-looking and getting ahead of the curve. He thinks it would be very wise of the City and PED to expand some of the programs and open it up to not only the CDCs but develop a type of task force that meets on a regular basis which includes people from the community. This is a pat on the back and some food for thought.

Commissioner Fernandez commented that currently in Frogtown one of the CDCs is actively pursuing about 20 rental properties. The concern from the community there is that this area already has a large concentration of rental property, and to keep adding more and more rental property is chasing away some of the hone owners. And in order for some of these certain communities to grow you have to keep promoting that. And he realizes it is the need right now or the hot item but in the long run you might be chasing away the homeowners in the area. Also what are the conversations like with the CDCs?

Mr. Pereira said that there is a group of Saint Paul CDCs that meets regularly and staff met with them to go over the draft plan. They had a lot of clarification questions; are these monies going to non-housing types of community development activities, and what is the process for a CDC to apply for the funds (e.g. the CIB process or the HOME RFP). Mr. Pereira did not hear a lot of comments in terms of direction from them, it was more questions. The Metro Consortium of Community Developers, which represents a larger group of CDCs, asked when the public comment period was up, so they may be submitting some comments and that might further reflect some of the Saint Paul CDCs thoughts on all this after being able to digest the plan. The plan includes citywide goals so there is no real specification on strategies in particular neighborhoods. The City would look to the district councils to help implement the plans that they have put together as a complement to the City's adopted Comprehensive Plan as it relates to housing.

VII. Comprehensive Planning Committee

No report.

VIII. Neighborhood Planning Committee

No report.

IX. Communications Committee

No report.

X. Task Force Reports

No reports.

XI. Old Business

None.

XII. New Business

	None.	
XIII.	Adjournment	
	Meeting adjourned at 10:10 a.m.	
Recorded and prepared by Sonja Butler, Planning Commission Secretary Planning and Economic Development Department, City of Saint Paul		
Respectfully submitted,		Approved
		(Date)
Donna Drummond Planning Director		Marilyn Porter
Piannii	ng Director	Secretary of the Planning Commission
Butler\planning commission\March 26, 2010		